



Original Jurisdiction Of High Courts In The Light Of Constitution Of Pakistan

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Abstract: The current paper is concerned with the study, appreciation, and analysis of High Court Constitutional Jurisdiction and related matters in their letter and spirit, in light of case-laws and other relevant rules and orders. High Courts in Pakistan issue authoritative directions under Article 199 of the Islamic Republic of Pakistan's Constitution in the form of Writs classified as Mandamus, Prohibition, Certiorari, Co-Warranto, and Habeas Corpus to office holders engaged in the conduct of the Federation, Province, or local authority's affairs and a check on judicial review over ultra-vires acts or omissions. Such powers are unrestricted in the case of a violation of fundamental rights. The remedy is subject to certain restrictions and limitations. This paper is a straightforward, up-to-date document written for practitioners, in which the procedure for enforcing the law and safeguarding the guaranteed fundamental rights is also described.

Key Words: Pakistan, Writs, High Courts, Judicial Review, Constitution, Jurisdiction

General Overview

High courts in Pakistan are established pursuant to Chapter 1 of Part IV of the Constitution of the Islamic Republic of Pakistan 1973, and they have the authority to use either appeal or original jurisdiction in a variety of matters. The constitutional script and other acts that confer authority empower high courts in original jurisdiction. High Court Constitutional Jurisdiction is the name given to the constitutional jurisdiction of the Supreme Court. Also referred to as "Writ Jurisdiction" or "Judicial Review." When no other adequate and effective remedy is provided by law, the High Courts exercise their Original Constitutional Extraordinary Jurisdiction under Article 199 of the Constitution. The High Courts of Pakistan usually use this remedy to rein in inferior courts or public authorities in Pakistan who infringe on people's legal or fundamental rights, and to strike a fair balance between the rights of aggrieved citizens and the activities of state entities. Constitutional jurisdiction is by definition overriding and supreme, and any form of control that usually restricts the use of other judicial remedies has no bearing on the power of the High Court. The High Court issues a Writ instructing any public official or private individual to do something or refrain from doing something. As a result, the High Court ensures that administrative actions are fair. This is judicial oversight of the country's executive and legislative branches. In judicial review, the High Courts examine the actions of functioning states under the doctrine of 'ultra vires,' or excessive jurisdiction, and quash the decision if it is excessive or does not follow established procedures. The High Court must determine whether the law granting the office holder the right to control and act is constitutionally valid, as well as whether the public entity/office holder acts unfairly by suppressing their right domain. Until and unless constitutional jurisdiction has been specifically barred, directly or indirectly, by the applicable prevailing rules or constitutional wording, the logic of using administrative, ministerial, and legislative commands to interfere with people's legal privileges is constantly questioned. On a pure legal question, a constitutional petition can be filed. Factual controversies that required the recording of evidence to prove or disprove the fact, which is not the

job of the High Court in Writs, could not be seen and/or dealt with under Constitutional Jurisdiction and could not be adjudicated.

Under Article 184 of the Constitution, the Supreme Court can also exercise written jurisdiction, but only in cases involving public interest. Article 184, Sub-Article 3, of the Constitution establishes the Supreme Court's original jurisdiction and empowers it to assume jurisdiction over any question of public importance relating to the execution of any fundamental right of the people.

In Pakistan there are large irregularities in the ratio of corruption and state officials and illegal appointments, preferentialism and nepotism prevail. Government officials and office-holders often refuse to exercise genuine and valid rights. The system relies on political clout, and merit is frequently overlooked. People go missing in Pakistan, and human rights are frequently violated, and people are often hesitant to use this effective tool due to a lack of knowledge in the form of constitutional provisions.

Pakistan Evolutionary Writing Period

After independence, before the 1954 amendment of the Indian Government Act 1935, as passed in Pakistan, there was only S. 45 of the Specific Relief Act for presidential towns concerning the issuance of Writs alone, but, in the rest of the country, and in matters which did not fall under Section 45, no court could issue a letter in the presidential towns. The reason is that the subcontinent was governed abroad.

The difference between the adoption of Pakistan's Constitution of 1956 and the 1935 Act was that the federal court had no authority to write under the 1935 Act, whereas the Supreme Court had vast authority to write under Article 22 of the 1956 Constitution, even in matters relating to fundamental rights.

The legal defect in this way was that the range of those writings mentioned in both the constitution referred to had precedents and that the entire dependence was on England and on decisions and books made by other nations.

There were no preconditions or limitations on the applicant seeking write relief under the 1935 and 1956 Constitutions, which is an important feature that distinguishes the constitutions of 1973 and 1962 from previous constitutions. In some cases, the Constitutions of 1962, 1972 (interim), and 1973 made it mandatory for the applicant to be a "aggrieved person," and no other effective existing relief should be used. There were many other limitations on the power of High Courts in temporary/interlocutory relief, etc., in the later 1962, 1972 (interim), and 1973 Constrictions that did not exist in the previous Constrictions, i.e. the 1935 Government of India Act and the 1956 Constitution.

In 1962, Pakistan's second constitution was drafted and implemented, with Article 98 replacing Article 170 of the previous constitution, which allowed the High Courts to issue Writs. Unlike previous constitutions, writs were given no specific names at first.

The 1973 Constitution's final and infield document, Article 199, contains the same provision as the previous Constitution, granting high courts Writ Jurisdiction. Article 199 of Pakistan's current constitution is a direct descendant of Article 98 of the 1962 Constitution, with minor differences in language and content.

"A Discretionary Relief" is the title of the writ.

Because the word "may" was used in Article 199's text, one of the key features of the remedy is that it is discretionary and cannot be requested as a matter of right.

Because relief under Article 199 of the Constitution is discretionary, the High Court has the authority to deny relief in certain circumstances, taking into account the petitioner's behavior. Discretion does not mean that the High Court's powers are limited to the meaning of the word discretion; rather, the High Court's power is unrestricted once it is satisfied or proven that the applicant has exhausted all other options and the case falls under Article 199.

Technicalities will not prevent the High Court from exercising its constitutional jurisdiction and granting relief that a person is otherwise entitled to; however, relief based on the principles of

discretion in the constitutional jurisdiction will not be denied where the grieved persons' fundamental rights have been allegedly violated.

Following are some situations where discretionary relief could be refused by Court:

- Malicious conduct of applicant.
- A party who himself placed hurdles in the way of smooth running of the proceedings of the Court.
- Who had acted contumaciously with sole object to prolong the litigation and to add the agonies of the respondent.
- Concealment of fact by applicant which comes subsequently in the notice of High Court.
- One who had not come up to the High Court with clean hands.

"Petitioner did not reveal in her Nikah Nama that it was her third marriage, which was sufficient to disentitle her to claim discretionary relief in the form of a constitutional petition," according to a Lahore High Court ruling (2009 MLD 373).

In a case where the High Court failed to disclose a civil case, the petitioner was denied discretionary relief under the High Court's extraordinary and equitable jurisdiction (1997 MLD 2382).

"Where the grant of aid and relief is unfair, immoral, or contrary to the directives of good conscience and fair play, the High Court is not obligated to grant relief to such applicant simply because he is legally entitled to the same relief," the Supreme Court stated (PLD 2001 S.C 415).

The Karachi High Courts went a step further and stated that "a person with a personal interest in the outcome or success of a constitutional quo-warrant petition may not fall within the scope of discretionary relief," and that "the High Court may investigate the motivation for filing such a Writ application and decide on its viability." The primary motivation for the applicants in filing quo-warrant was not for the public good/welfare or to ensure that only lawful appointees could hold public office, but for personal gain." The quo warrant request was denied (2018 PLC (CS) N 16).

Other constitutional provisions take precedence over Article 199.

Various limitations or trappings must be satisfied before the High Court can assume constitutional jurisdiction. ' The first words of Article 199, 'Subject to the Constitution,' indicate that the provisions and powers under this Article may be used if other provisions or articles of the Constitution do not restrict or impose an embargo on the High Court exercising such powers. The High Court has the power to assume Writ jurisdiction if the jurisdiction is not expressly or implicitly barred by another constitutional provision.

Other acts fall under the domain of sub-constitutional laws, which have no authority over the constitutional jurisdiction and thus cannot be limited by any rule, regulation, or other document that is not part of the Constitution.

'No court shall have any jurisdiction except as conferred by the Constitution or under any law,' according to Article 175(2) of the Constitution.

Two main articles, Articles 212 and 225, among other constitutional provisions, exclusively barred the constitutional jurisdiction. Article 212 empowers the legislature to establish administrative courts and tribunals with jurisdiction over matters relating to the conditions of persons serving Pakistan, claims arising from government torts, and the acquisition of enemy property, among other things.

Because special forums have been entrusted with jurisdiction for that purpose, the High Court is prohibited from exercising jurisdiction in servant disciplinary matters, terms and conditions of service, transfer orders, release of salaries with back benefits, moving to a higher level of service, upgrading of the post, and so on in the presence of Article 212.

"Generally, in the election process, the High Court cannot interfere with Writs in view of Article 225," according to Muhammad Azam Khan's recent decision. This is subject to an exception where an aggrieved person has no legal recourse against a blatantly illegal election decision during or after the election has been completed, and jurisdiction is coram-non-juices (2000 CLC 1).

The Constitutional Writs' Exhaustion Rule

The alternative remedy barring the exercise of High Court jurisdiction is one of the key factors governing the exercise of constitutional petitions under Article 199, but it must be useful, effective, and appropriate, not merely illusory and unreal. It must be a legal remedy that is no less convenient or beneficial than the Writ of Execution.

The Constitutional jurisdiction of the High Court cannot be used to replace the statute's right of appeal or to render the law obsolete. If the revision or appeal relief is available, but the applicant has purposefully invoked Constitutional Jurisdiction instead, the petition cannot be maintained and will be dismissed.

Article 199 is not intended to circumvent the jurisdiction of other statutory bodies in the country or to render all other laws obsolete. The High Court has been given the authority to intervene in a situation where no legal remedy is available to deal with the complaint of any aggrieved person, or where the applicant has exhausted the remedy provided by statute but the genuine grievance remains unresolved.

In the event of complete lack of or abuse of power by a statutory body, the High Court will usually decline to hear a Writ application if an alternative remedy is available.

The exhaustion rule is a stipulation by which High Courts standardize their Constitutional Jurisdiction and, in exceptional cases, the strict observance of the rule where appeal, review, or revision may cause substantive injustice, thus application of such rule would be based on the situation of each event because this rule is not an absolute.

Suo-Moto Action is not a concept.

- Article 199 of the Constitution provides for remedies that may be used instead of filing an application with the court. Article 199 uses the word "application" specifically to indicate that the High Court does not have the authority to take action on its own or on an oral request, and that a request must be filed in order for the proceedings to begin.
- It is a well-established legal principle that the High Court does not grant relief in constitutional proceedings on its own motion or agreement; however, jurisdiction may be exercised based on a letter addressed or a note posted identifying a violation of Fundamental Rights, in addition to the methodology set forth in High Court rules and orders.
- In numerous reported Supreme Court judgments, it has been held that the High Court has no authority to issue a suo-moto notice and begin proceedings without an application; however, if we examine the following examples, we can see that the provision of writs is not followed in its letter and spirit in many cases, and the jurisdiction has not been limited to "applications," despite the text of writs.
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 - Judgments on the "Suo Moto Action by the High Court" are analyzed.
- The Ex-Chief Justice of the Supreme Court held in a Division bench decision in the reported case of 'Tariq Transport Company' that the High Court has no power of Suo Moto or to take a notice on his own accord. It was determined that simply providing information to the High Court does not entitle the Court to initiate Certiorari or other similar proceedings. This view has since been reaffirmed by the superior Court in a number of cases, including the cases of Ali Muhammad and Akhtar Abbas, and it is now a well-established principle that the High Court has no such power to grant relief without filing an application (PLD 1958 S.C 437).
- Analysis: Following a review of certain cases, it is clear that the High Court has taken numerous suo moto actions and has not limited its constitutional powers to "applications" only, as is required in many cases. The following is a breakdown of some of the cases:
 - According to the High Court Bar Association, the Quetta High Court has taken Suo Motu action in connection with the murder of twenty six persons in the district Mastung of Baluchistan Province by a banned extremist organization (Lashkar-i-Jangawi) (PLD 2013 Quetta 75).
 - Suo-moto action under Article 199 was discussed and implemented in a state case against the Director General of the FIA, the ZARCO Exchange fraud case (PLD 2010 Lahore 23).
 - The Lahore High Court Lahore has taken suo-moto notice of the child who died after falling into the main hole in a state case against Lahore Development (2000 MLD 1055).

- On December 17, 2009, the High Court of Lahore issued a suo-moto notice in the Imanae Malik death case, ordering that section 302 of the Pakistan penal code be added to the already filed FIR against the doctors and proprietor of Doctors' Hospital. (Dawn, 19 June 2012)
- The issuance of a summons to a careless doctor in the district of Sargodha is another example of suo-moto.

Mr. Justice Khuwaja, ex-Chief Justice of the Lahore High Court

Functions Test

The "function test" is used by courts to determine whether a statutory body seeking relief through a constitutional petition is a "person" within the meaning of Article 199 of the Constitution. Because Writs are not generally maintainable against private individuals, such a function test is required. The phrase "performing functions in connection with the affairs of the Federation, province, or local authority" clearly implies governmental or State functions that involve the use of public power. Functions can be related to law and order, which is the job of the police, or they can be related to education, social welfare, public utility services, economic growth, and other commercial or industrial state enterprises. In general, such functions are assumed to be performed by an entity that is directly appointed, controlled, and funded by the state; either the Federation or a Province or local authority.

Government officials are distinguished from private entities by the fact that their activities are governed by laws enacted by the government. The initial functions test should usually be whether the entrusted functions/responsibilities to the office holder are in fact state functions; whether command and control of the body vests in a substantial way in the hands of the state; and whether the state provides funds. If these conditions are met, a person may be considered a "person" in the sense of Article 199; otherwise, they are not.

An examination of a decision on "Functions test/maintainability"

Employees of Habib Bank Limited challenged a policy decision made by the Board of Management of HBL in which 308 employees were compulsorily retired early and the services of two employees were terminated by paying them three months' dues in the Abdul Wahab reported case before the Supreme Court.

The employees' argument for the High Court's jurisdiction was that the Federation owns a significant stake in the HBL in question and that the state is represented. Aside from that, the bank was governed and supervised by the State Bank, which is a statutory entity. Because the state is the owner and control authority of the HBL, the High Court has power to issue appropriate Writ for all purposes as provided by Article 199(1)(c) of the Constitution, the HBL was a 'person' in the terms of Article 199(1)(c) because it is different from a 'usual private person' because the state is the owner and control authority of the HBL, therefore the High Court has power to issue appropriate Writ for all purposes as provided by Article 199(1)(c) of

Six judges ruled on the case. The court found that the majority of HBL (Bank) shares are owned by private individuals, that the bank has privatized its shares, and that the private foundations that own shares primarily represent the Board of Management. Petitioners/employees were unable to demonstrate that the state owned the majority of the stock or had majority representation on the board of directors. According to Ordinance No. LVII of 1962, the State Bank of Pakistan was only a regulatory body for all banks in Pakistan. The State Bank of Pakistan has a regulatory role and is under its control. The HBL could not be clothed with the rank of a 'person' or a 'authority' performing a function in connection with the Federation's affairs. For all purposes, the HBL in question is a private organization. Employees' constitutional petition was dismissed as unmaintainable (2013 SCMR 1383).

Analysis: In a constitutional matter, a Writ of Certiorari, prohibition, or mandamus can only be filed against "persons" who are performing functions in connection with the affairs of the Federation, province, or local authority, not against a private person or entity. A constitutional petition cannot be filed against a private individual. The writ of private bank employees was dismissed on the basis of maintainability because the constitutional Court is bound by a rule that it must use the "function test" to determine whether a statutory body is a "person" within the meaning of Article 199. If it does not fall under the definition of a "person," the courts are not authorized to issue Writs, and the aggrieved party should seek redress in another forum if one is available.

The Civil Procedure Code's Applicability to Writ Proceedings

It is a well-established legal presumption that the provisions of the Civil Procedure Code 1908 apply when considering the various differences that arise from a constitutional petition. Because the scope of the C.P.C.'s applicability to constitutional petitions has yet to be determined, everything that could be done with civil suits is being done with constitutional petitions. Petitioners are joined in a petition filed by a person; legal heirs are joined in a petition filed by a person; co-petitioners are joined, and even proceedings in said petitions are sometimes passed against a person without his knowledge, particularly if he has been burdened with a liability, it would be a sufficient caucus. The procedure of the Civil Procedure Code, 1908, which is the general law of procedure, is always used to conduct proceedings under constitutional jurisdiction.

Because the principles of the Civil Procedure Code apply to constitutional proceedings, a second Constitutional petition qua the same subject-matter and relief is not maintainable, and the principle of Res-Judicata as envisioned in section 11 of the CPC applies. However, where the first writ petition is dismissed for non-prosecution, the principle of res-judicata is not applicable. The principle of Constructive-Res Judicata applies equally to constitutional jurisdiction as it does to civil litigation. The principle of estoppel applies to Writ proceedings as well. The order of the High Court in a constitutional petition, which is alleged to be based on fraud and misrepresentation, must be challenged by filing an application with the High Court under section 12(2) of the CPC, rather than by filing a separate suit. In Writ proceedings, the High Court has the right to review its own order under section 114 CPC. Order 1 rule 8 of the CPC allows for the filling of writs in representative capacity. If a writ is dismissed in default, it can be restored in 30 days under CPC order 10 rule 9.

Analysis "Is Original Civil Jurisdiction Writ Jurisdiction?"

The Case's Facts: The Division Bench of Ayesha A. Malik and Umar Ata Bandial dismissed the appeal filed against the interlocutory order in a Writ filed under section 15 of the Code of Civil Procedure (Amendment Ordinance) 1980 section 15 instead of section 3 of the Law Reforms Ordinance 1972 against the order of a single Judge in Writ petition in I.C.A No. 746 of 2011 entitled Muzamil Sultan versus Federation of Pakistan.

Legal issues: According to section 3 of the Land Reforms Ordinance, whenever a question is finally decided in a Writ petition by a single judge of the High Court, such order can be challenged in intra-court appeal before the division bench or larger bench. However, section 3 of the Law Reforms Ordinance has imposed a restriction that interlocutory orders cannot be challenged in intra-court appeal and such orders cannot be challenged in intra-court appeal.

Section 15 of the Code of Civil Procedure (Amendment Ordinance) 1980 established a right of appeal against interim orders made by a single Judge of that Court while exercising its original Civil Jurisdiction.

Permission for an intra-court appeal against an interlocutory order has been granted under section 15, subject to a condition that the interlocutory order be made in the exercise of original civil jurisdiction.

Analysis: In constitutional matters, the High Court does have original jurisdiction. There have been numerous decisions holding that Writ proceedings are civil in nature and have original jurisdiction, and that the Code of Civil Procedure applies to the proceedings before the High Court based on the changing circumstances.

The issue of whether the proceeding before the High Court in writ proceedings is Original Civil Jurisdiction was thoroughly discussed in the above-mentioned Judgment. After deliberating over numerous pro and con judgments, it was determined that while the jurisdiction is original, it is not original Civil Jurisdiction, and thus the appeal was dismissed as filed against the interlocutory order.

Filing Writs in a Timely Manner

Limitation Act 1908, which provides for the specific timing of each case and application, is not applicable to the proceedings before the High Court in respect of constitutional petitions; the principle of laches however applies to such proceedings.

It is a well-established legal principle that delay defeats equity, and equity would benefit the vigilant rather than the indolent. For judging the issue of limitation, various parameters have been prescribed. Because the constitutional remedy is always discretionary and relief is always considered equitable, each day's delay must be clarified by providing sufficient cause for an extension of time in the case of limitation, whereas in the case of filing a constitutional petition, the issue of laches must be considered on equitable and reasonable terms. When the High Court determines that equity in a case favors the petitioner, the court is required to exercise discretion in that party's favor. The issue of delay must be dealt with on the basis of the facts of each case, and no rigid rules can be established in this regard. The statute of limitations is a legal bar to the award of a remedy, whereas laches is a bar in equity (natural justice). When applying the principle of laches, the dictates of justice and equity, as well as the balance of legitimate rights, are kept in mind. Within a "reasonable time," an aggrieved person may seek relief from the High Court under Article 199 of the constitution.

In the case of Sheikh Wijahat Ali, it was decided that reasonable time was 120 days or four months (2013 YLR 2132 Peshawar).

"Aggrieved person is supposed to approach High Court in term of 199 within reasonable time, which has been defined as six months," it was held in the Amjad Ali Khan case (2019 PLC (CS) 300).

In the case of Safdar Ali Sahito, it was decided that laches alone would not be enough to dismiss a constitutional petition unless equity favors the contesting respondent (2011 PLC (CS) 956).

Territorial Jurisdiction

Each High Court in Pakistan has the authority to deal with matters that arise within their territorial jurisdiction, and a matter should not be dealt with if the cause of action arises outside of that jurisdiction. The High Court's Constitutional Jurisdiction could not extend beyond the province's borders and affect any other province, area, or people. When a person has a cause of action, he or she may seek the jurisdiction of the court located in that area. The petitioner had the right to invoke the constitutional jurisdiction of any High Court in any part of the country where the impugned order had affected him if it had been issued by or under the auspices of a Federal Ministry. If a portion of the cause of action falls under the jurisdiction of a court, that court can take over the entire case.

Intra-Court Appellate Power

In certain cases, the "Law Reforms Ordinance 1972" provides for an intra-court appeal to a Bench of two or more judges against orders made in a Writ Petition by a single judge of the High Court. The term "intra Court" refers to the same court where the order was issued.

Before filing a writ in the High Court in continuation, the proviso of S. 3(2) of the Law Reforms Ordinance has imposed a restriction on filing intra-court appeals if at least one appeal, revision, or review has been provided by law in inferior courts proceedings.

Intra-Court appeal is not maintainable in the given situation if the appeal, revision, or review has been requested or not, but the same has been provided by law.

If the right of leave to appeal is not provided by Proviso of Section 3 (2) of the said Act, or if the order has been passed by two or more judges in a constitutional petition, the aggrieved person can file a Leave to Appeal petition with the Supreme Court.

Similarly, an interlocutory order or an order that did not resolve the entire case before the court would not be appealable.

Intra Court appeals are not maintainable in the following circumstances: • Orders issued by more than one judge of the High Court • Orders that are not final orders. • Orders issued under Art.199 (1) (b) I that are related to Writs of Habeas Corpus.

- Interlocutory Orders • Where a remedy against the Original Order is provided before the Writ in the form of Appeal, Revision, or Review

- In rebuttal to a Writ of Execution.

Limitation Period for Filing ICA: Under Article 151 of the Limitation Act and Part V, Chapter 1, Part A, Rule 4 of the Lahore High Court Rules and Orders, the time limit for filing an Intra-Court Appeal

against a decree or final order is 20 days. Article 12 of the Limitation Act allows for the time spent obtaining a certified copy to be deducted from the computation of the limitation period, but there are conflicting views in superior court judgments on the subject.

“Don't wait for detailed judgment,” it was said in the Abdul Majeed case, but “a different view has been expressed” in the Muhammad Islam case (PLD 2012 Lahore 112/ 2011 SCMR 8).

In an intra-Court appeal, the Lahore High Court Rules and Orders state that there is no need to affix a High Court decision order.

In one case, despite the fact that the petitioner had simultaneously filed an intra-court appeal in the High Court and a Leave to Appeal in the Supreme Court, the CPLA was granted in the Supreme Court, despite the fact that the petitioner had abandoned the intra-court appeal (1998 PLJ 593).

Because the Supreme Court provides a 60-day limit on leave to appeal, if a leave to appeal is filed after the 20-day limit for intra-court appeals on the High Court level and then converted to an intra-court appeal, the petition will be dismissed as time-barred.

Although the right to an Intra Court Appeal cannot be equated with the right to an ordinary appeal because an appeal against a judgment is always preferred to a higher forum, the scope of review is not only limited but also constrained by certain limitations, such as arithmetical and clerical errors in the decision, or error due to oversight, or anything uneven because

Furthermore, the validity of Section 3 of the Law Reforms Ordinance, 1972 is questioned because the words "Article 199" were introduced in the Proviso to Section 3 of the Law Reforms Ordinance, 1972 by an Act of 1975, which is statutory in nature, whereas the order under Article 199 is constitutional. Such an Act of 1975 is effectively a constitutional amendment, and a constitutional amendment, in my opinion, would be more appropriate to clarify the law and procedure of appeal against the order in Article 199.

Disobedience to the Court's Orders/Contempt of Court

In the event of a violation of any order, the High Court has the authority under Article 204 of the Pakistani Constitution. Different situations are defined as contempt of court in Article 204, and it was clarified that the exercise of power conferred on a Court by Article 204 may be regulated by law and, subject to law, by court rules.

The Contempt of Court Act 2012 was enacted in the exercise of the powers conferred by Article 204, and it provided for a six-month punishment period in section 4 in the case of disobeying or disregarding a High Court order.

In the Mehdi Hassan case, it was held that if a High Court order issued in the exercise of Writ jurisdiction is not followed, the person aggrieved has two options. When there is a genuine disagreement about the order's effect, he can ask for more directions or file a complaint under the Contempt of Court Act. In the first case, the Court may issue additional directions for the order's enforcement after determining its effect. This would not be an order issued in the exercise of the court's criminal jurisdiction. In the second case, the court may either find the respondent guilty or discharge him on the grounds that he acted in good faith believing he was following the court's order when he was actually disobeying it. That person would now be aware of the order's effect, and if he still failed to comply with it, the defense of bona fides would no longer be available to him in any subsequent application filed under the Contempt of Courts Act (PLD 1960 751).

When a public official is convicted of contempt of court, he or she can no longer hold the position. On April 26, Pakistani Prime Minister Yousaf Raza Gilani was sentenced to prison for contempt of court for refusing to obey a court order, and on June 19, 2012, he was disqualified from holding a seat in parliament and removed from office. (Dawn, 19 June 2012)

Contempt is always between the contemnor and the Court, according to established legal principles. Contempt of Court proceedings are quasi-criminal in nature, requiring the same level of proof of facts as criminal cases. Contempt proceedings cannot be used to enforce a writ order, but they can be used to sentence a contemnor who has disobeyed a court order or a High Court order.

Conclusion

Article 199 is a restructured and modified version of the five previously abolished constitutions' Writs remedy, which is the most effective discretionary tool for controlling office holders from

capricious and ultra-vires acts and safeguarding fundamental rights throughout the county. Every democratic state recognizes it as a distinct remedy from inferior courts and a high prerogative. Unlike Supreme Court powers, certain limitations and mandatory boundaries are imposed before assuming jurisdiction, and the civil procedure code and High Court rules and orders provide a comprehensive procedure that has been streamlined and simplified by case-laws.

References

- Abdul Majeed v. Federation of Pakistan through Secretary Government of Pakistan, PLD 2012 Lahore 112
- Abdul Wahab and others v. Habib Bank Limited, 2013 SCMR 1383
- Abdul Wahab v. Habib Bank Limited, 2013 SCMR 1383
- Akhtar Abbas v. Nayyar Hussain, 1982 SCMR 549
- Ali Muhammad through Legal Heirs v. Chief settlement Commissioner, 2001 SCMR 1822
- Amin Textile Mills (PVT) Ltd. V. Islamic Republic of Pakistan, 1998 SCMR 2389
- Amjid Ali Khan v. Ministry of Energy (Power Division) Islamabad, 2019 PLC (CS) 300 (Lahore)
- Anosha Shaigan v. Lahore University of Management Sciences, PLD 2007 568
- Barkat Ali v. President/Chief Executive PTCL Islamabad, 2014 PLC (CS) 352 (Peshawar)
- Bashir Ahmad, v. Sh. Abdul Aziz, 1997 MLD 2382 LAHORE
- Brig. Muhammad Bashir v. Abdul Karim, PLD 2004 SC 271
- ECHO west international (PVT.) LTD. Lahore v. Government of Punjab through Secretary, 2009 CLD 937
- Government of Pakistan v. Messers Shoaib Bilal Corporation, 2004 CLC 1104
- High Court Bar Association v. Government of Balochistan through Secretary Home and Triable affairs Department, PLD 2013 Quetta 75
- Javed Cement Ltd v. Deputy Commissioner District West Pakistan, 2002 CLC 1804 (Karachi)
- Khalid Bibi v. Shabnam un Nisa, 2020 CLC 47 (Islamabad)
- Khalid Mehmood v. Collector of Customs, 1999 SCMR 1881
- Liaquat Hussain v. Federation of Pakistan, PLD 1999 S.C 504
- Maryam Bibi through Abida Parveen v. Naseer Ahmad, PLD 2015 Lahore 336
- Mehdi Hassan, Additional Secretary food and forest department, Government of West Pakistan v. Zulfiqar Ali, Conservator of forest, development Circle Lahore, PLD 1960 751
- Mian Muhammad Shahbaz Sharif v. Federation of Pakistan, 2019 PCRLJ 1123 Lahore
- Muhammad Asghar v. State, PLD 2006 326 (Lahore)
- Muhammad Azam Khan v. Capital development authority, 2000 CLC 1
- Muhammad Islam v. Inspector General of Police Islamabad, 2011 SCMR 8
- Pakistan Lawyers Forum (Registered) through its Presidents v. Federation of Pakistan, PLD 2005 Lahore 107
- Safdar Ali Sahito v. Province of Sind through Chief Secretary, 2011 PLC (CS) 956 (Karachi)
- Secretary to the Government of the Punjab, v. Ghulam Nabi, PLD 2001 S.C 415

Services Hospital Lahore through Medical Superintendent, 2012 YLR 174

Sheikh Wijahat Ali v. Government of Khyber Pakhtunkhwa through Secretary Industries, 2013 YLR 2132 (Peshawar)

Sheikh Wijahat Ali v. Government of KP through Secretary Industries, 2013 YLR 2132 (Peshawar)

Sir Edward Snelson, v. The Judges of the High Court of West Pakistan, PLD 1961 SC 237

State v. Director General FIA, PLD 2010 Lahore 23

State v. Lahore development authority, 2000 MLD 1055 (Lahore)

Sultan Bibi, v. Muhammad Sarfaraz, 2009 MLD 373 LAHORE

Tariq Transport Company Lahore v. Sarghoda Bhera Bus Services Sargodha, PLD 1958 S.C 437

Dawn News Paper, December 16, 2009

Dawn News paper, June 19, 2012